

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1010 CRIMINAL REVISION APPLICATION NO.13 OF 2023
WITH APPLN/207/2023 IN REVN/13/2023

ARUN PRAKASH KALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Mane Dhananjay A.
APP for Respondent-State : Mr. K. S. Patil.
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CORAM : S. G. MEHARE, J.
DATE : 12.01.2023

PER COURT :-

1. In Criminal Revision Application No.13 of 2023, issue notice to the respondent, returnable on 10.02.2023.
2. Learned APP waives service of notice for respondent-State.

In Criminal Application No.207 of 2023.

3. The applicant has been convicted of the offences punishable under Sections 279, 304-A, 338, 337 and sentenced to suffer simple imprisonment for various offences. The maximum sentence of one year was imposed for the offence punishable under Section 304-A of the IPC. The judgment and

order of conviction of the learned Judicial Magistrate First Class, Sailu. The learned Sessions Judge upheld the said judgment in an Appeal No.75 of 2019 and order dated 07.01.2023. Soon after the dismissal of appeal, the accused was taken in the custody and sent to jail to suffer the sentence.

4. The learned counsel for the applicant would submit that both the Courts did not consider the facts of the case. No offence as such is made out against him. The legal provision has not been properly evaluated. Applicant has a good case on merit. Hence, the substantial sentence may be suspended.

5. Learned APP has opposed the application. He would submit that there are two concurrent judgments against the applicant. Scope in the revision is very limited. Therefore, the sentence may not be suspended.

6. Perused the judgments and orders of the learned Trial Court and the learned Sessions Judge. There appears grounds to argue for the applicant. There are no complaint against the applicant that he has misused the bail granted to him during the pendency of the trial in appeal. In the set of facts, the

application deserves to be allowed. Hence, the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The order sentencing the applicant for the offences punishable under Sections 279, 337, 338 and 304-A of the IPC passed by the learned Judicial Magistrate First Class, Sailu, District Parbhani in RCC No.144 of 2018 (Old SCC.No.201 of 2017) dated 16.09.2019 and confirmed by the learned Sessions Judge, Parbhani in Criminal Appeal No.75 of 2019, dated 07.01.2023 is suspended till the conclusion of the criminal revision application.
- (iii) The applicant be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount.
- (iv) Bail before the learned Sessions Judge, Parbhani.
- (v) Call Record and Proceedings.

(S. G. MEHARE, J.)

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vmk/-